

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0613/P1dn
EVM:sac:jf

January 23, 2013

ATTN: Robert Kovach

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. This draft allows the creation of a lien for municipal utility arrearage only when the customer is the owner of the lot or parcel of real estate to which the utility service was furnished. The draft, thus, is not confined to the landlord/tenant situation in your example. Please let me know if you want a more limited draft.
2. This draft does not impose any requirement upon the owner of the real estate to provide the utility with information regarding the use of the property. The utility, therefore, may not be aware that the customer is a tenant or other non-owner until an actionable arrearage occurs. Current law provides some protection for landlords with tenants that are responsible for utility payments. This current provision requires a landlord to provide the name and address of the owner and tenant of the premises and allows the utility to request a copy of the rental agreement. See s. 66.0809 (5), stats.
3. This draft adds a requirement that the municipal utility provide a notice of arrearage to the customer, since the customer may not always be the owner or occupant of the premises. The draft does not, however, change the requirement that an owner or occupant be provided with a notice. In many instances, therefore, a utility will be responsible for providing multiple notices. Please let me know if you want any changes to this portion of the draft.
4. As a caution, the changes made by this draft could permit some manipulation of the system. There are no restrictions in this draft regarding who may be a customer. It is possible, therefore, that customers in name only from whom collection may be difficult or impossible may be used to avoid the lien/property tax collection mechanism.
5. A more limited approach on the same general topic of your draft request can be found in 2011 AB 182. That draft would have prohibited a municipal utility from using the lien/property tax collection method when a tenant is responsible for utility payments and the landlord has provided a written notification of the name and address of the owner and the tenant.
6. The final paragraph of your request suggests a provision encouraging a utility to use DOR tax intercepts/liens to recover funds. LRB policy, however, is to not include

material that does not have legal effect in the statutes. This draft, therefore, does not include anything effectuating this portion of your request. Some more effectual possibilities for meeting your intent may be to require use of tax intercepts/liens when possible, require assessment of a utility's use of tax intercepts/liens in reports or audits, or requiring the PSC or DOR to provide information to municipal utilities regarding the availability of tax intercepts/liens.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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